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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,491	06/21/2001	Andrew James Halt	HAL2-PT003	6089

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EXAMINER

CULLER, JILL E

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/886,491

Applicant(s)

HALT ET AL.

Examiner

Jill E. Culler

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 05/02/03 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not apparent from the disclosure how the blocks of the invention could be defined as 'interlocking'. It has been assumed that this refers to their ability to be readily detached from the impression means.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,896,929 to Dori in view of U.S. Patent No. 994,971 to Beck.

Dori clearly shows an identification and tracking system comprising an impression means, 20, for providing a predetermined image, 26, 28, upon an impressionable medium, 10, where the impressionable medium is sand. Dori also

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teaches that the impression means is a cylindrical drum, rotatably connected, which creates an image as the drum rotates across the impressionable medium. Dori further teaches that the drum comprises areas of different heights which form the impression. See Figs. 4 and 5 in particular.

Dori does not show an activation means for moving the impression means between a first position, where the impression means is in contact with the impressionable medium, and a second position where the impression means is out of contact with the impressionable medium. Dori also does not show a sled for supporting the activation means, thereby permitting the system to glide across the impressionable medium.

Beck teaches an identification and tracking system comprising an activation means, 13, for moving an impression means, 8, between a first position, where the impression means is in contact with the impressionable medium, and a second position where the impression means is out of contact with the impressionable medium, and a sled, 1, for supporting the activation means. See lines 64-71 and 88-102.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the identification and tracking system of Dori by including a means therein for moving the impression means into and out of contact with the impressionable medium, since Beck teaches that such a means is advantageous for selectively applying the impression to the impressionable medium.

With respect to claims 6 and 7, the bracket, 22, of Dori is sufficient to meet the claimed brackets, since claims 6 and 7 do not structurally define the brackets, but rather describe the intended use of the brackets.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dori and Beck as applied to claims 1-3 and 6-7 above, and further in view of U.S. Patent No. 4,050,168 to Pace.

Dori and Beck teach all that is claimed, as in the above rejection of claims 1-3 and 6-7 except that the areas of differing heights in the system comprise at least two interlocking blocks, each of which has a predefined character embossed thereon.

Pace teaches a tracking and identification system comprising an impression means, 12, having areas of different heights comprising detachable blocks, 18, embossed with a predefined character, 16-24.

It would have been obvious to one having ordinary skill in the art at the time of the invention to apply the blocks of Pace to the modified identification and tracking system of Dori in order to be able to change the impression created by the impression means on the impressionable medium.

Response to Arguments

6. Applicant's arguments filed May 2, 2003 have been fully considered but they are not persuasive of any error in the above rejection.

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In response to the rejection of claim 4 under 35 U.S.C. 112, first paragraph, it remains unclear what applicant intends by the use of the word 'interlocking'. The referenced paragraph discusses both interlocking and non-interlocking blocks but the referenced illustration appears to indicate only one type of block and, as the description indicates that all of the blocks are held in alignment by a fixing means, it does not explain the difference between the interlocking and non-interlocking blocks.

In response to applicant's argument that it would not be physically possible to connect the raising and lowering means of Beck to the roller of the current invention, it should be noted that the rejection only concerns the combination of the raising and lowering means of Beck and the identification and tracking system of Dori, which meets the recited claim language. A person having ordinary skill in the art would recognize any structural modification required to make the combination functional.

In response to applicant's argument that there is no indication in Dori that it would be desirable to lift the roller off the sand or other surface, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one having ordinary skill in the art would

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recognize the advantage of being able to lift the system from the impression surface, thereby only producing the impression as desired.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill E. Culler whose telephone number is (703) 308-1413. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (703) 305-6619. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

jec
July 2, 2003



Dan Colilla
Primary Examiner
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